

**ENTERED**

February 25, 2022

Nathan Ochsner, Clerk

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF TEXAS  
CORPUS CHRISTI DIVISION

HERBERT HOOVER PRATT, III,

Plaintiff,

VS.

MIGUEL MARTINEZ, *et al.*,

Defendants.

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CIVIL ACTION NO. 2:21-CV-00100

**ORDER ADOPTING MEMORANDUM AND RECOMMENDATION**

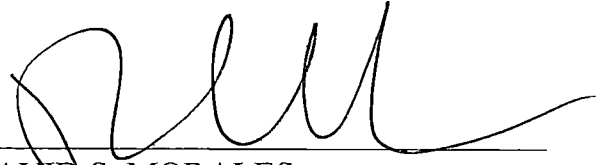
Before the Court is Magistrate Judge Julie Hampton's Memorandum and Recommendation (M&R). (D.E. 18). The parties were provided proper notice of, and the opportunity to object to, the Magistrate Judge's M&R. *See* U.S.C. § 636(b)(1); FED. R. CIV. P. 72(b); General Order No. 2002-13. Plaintiff filed objections to the M&R. (D.E. 20). Having carefully reviewed the proposed findings and conclusions of the M&R, the record, the applicable law, and having made a de novo review of the portions of the M&R to which the Plaintiff's objections were directed, 28 U.S.C. § 636(b)(1), the Court **OVERRULES** Plaintiff's objections (D.E. 20). Accordingly:

- (1) The Court **ADOPTS** the M&R in its entirety. (D.E. 18).
- (2) Plaintiff's claims for money damages against Regional Director Martinez in his official capacity are **DISMISSED** as barred by the Eleventh Amendment; and
- (3) Plaintiff's claims against Assistant Warden Miller and Regional Director Martinez in their individual capacities are **DISMISSED with prejudice** for failure to state a claim and/or as frivolous pursuant to 28 U.S.C. §§ 1915(e)(2)(B) and 1915A(b)(1).

- (4) The Court **ORDERS** that this dismissal shall count as a “strike” for purposes of 28 U.S.C. § 1915(g). The Clerk of Court is **ORDERED** to send a notice of this dismissal to the Manager of the Three Strikes List for the Southern District of Texas at [Three\\_Strikes@txs.uscourts.gov](mailto:Three_Strikes@txs.uscourts.gov).

A final judgement will be entered separately.

SO ORDERED.

A handwritten signature in black ink, appearing to read 'DM', is written over a horizontal line.

DAVID S. MORALES  
UNITED STATES DISTRICT JUDGE

Dated: Corpus Christi, Texas  
February 24<sup>th</sup>, 2022